

**MAHARASHTRA AUTHORITY FOR ADVANCE RULING****GST Bhavan, Room No.107, 1st floor, B-Wing, Old Building, Mazgaon, Mumbai – 400010.****(Constituted under Section 96 of the Maharashtra Goods and Services Tax Act, 2017)****BEFORE THE BENCH OF****(1) Ms. P. Vinitha Sekhar, Additional Commissioner of Central Tax, (Member)****(2) Shri T. R. Ramnani, Joint Commissioner of State Tax, (Member)**

|                                                                                    |                                                                                           |
|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|
| GSTIN Number, if any/ User-id                                                      | <b>27AABCT3207A1ZZ</b>                                                                    |
| Legal Name of Applicant                                                            | <b>M/s.Thermo Fisher Scientific India Pvt. Ltd.</b>                                       |
| Registered Address/Address provided while obtaining user id                        | B 403-404, Delphi, Hiranandani Business Park, Powai, Mumbai Suburban, Maharashtra, 400076 |
| Details of application                                                             | GST-ARA, Application No. 45 Dated 18.09.2019                                              |
| Concerned officer                                                                  | Division –III, Range – VI, Commissionerate, Navi Mumbai                                   |
| Nature of activity(s) (proposed/present) in respect of which advance ruling sought |                                                                                           |
| A Category                                                                         | <b>Retail Business</b>                                                                    |
| B Description (in brief)                                                           | Supply of Scientific & Technical Equipment                                                |
| Issue/s on which advance ruling required                                           | (ii) applicability of a notification issued under the provisions of the Act               |
| Question(s) on which advance ruling is required                                    | As reproduced in para 01 of the Proceedings below.                                        |

**PROCEEDINGS****(Under Section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)**

The present application has been filed under Section 97 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and MGST Act” respectively] by **M/s.Thermo Fisher Scientific India Pvt. Ltd.**, the applicant, seeking an advance ruling in respect of the following questions.

***Whether the Applicant is correct in charging 2.5% CGST and SGST respectively or 5% IGST, as applicable, by applying Notification No.45/2017-Central Tax (Rate), Notification No. 45/2017 –State Tax (Rate) and Notification No. 47/2017-Integrated Tax (Rate) all dated 14.11.2017 on the scientific and technical instruments/ equipment supplied to public***



***funded research institutions, research institutions, universities, Indian Institute Of Technology, departments and laboratories of the Central and State Government, basis the certificates appended herewith ?***

At the outset, we would like to make it clear that the provisions of both the CGST Act and the MGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to any dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provision under the MGST Act. Further to the earlier, henceforth for the purposes of this Advance Ruling, the expression 'GST Act' would mean CGST Act and MGST Act.

## **2. FACTS AND CONTENTION – AS PER THE APPLICANT**

A M/s. Thermo Fisher Scientific India Private Limited, the applicant, has submitted, as under:-

2.1 Applicant, situated at Powai, Mumbai, has a customs bonded warehouse license under Section 58 of the Customs Act, 1962 for deposit of imported goods without payment of customs duty and Integrated Goods & Services Tax (IGST).

2.2 Applicant also has other non-bonded warehouses located at various locations. Supplies in Maharashtra are undertaken from Toll India Logistics Pvt. Ltd., Bhiwandi, Maharashtra.

2.3 Applicant supplies scientific and technical instruments and equipment (hereinafter referred to as the said goods), to public funded research institutions, research institutions, universities, Indian Institute of Technology (IIT), departments and laboratories of the Central and State Government (hereinafter referred to as the said institutions).

2.4 Normally, Applicant imports the said goods & clears the same by (i) filing Bill of Entry for Warehouse without payment of assessed customs duty & IGST or (ii) filing Bill of Entry for Home Consumption thereby paying the applicable customs duty and IGST.

2.5 The said institutions, raise purchase order on the Applicant for supply of the said goods, declaring therein that, supplied items will be used for research and development.

2.6 The said institutions, while issuing purchase order provides documents as under:

| Sr.No. | Name of the Institution | Documents Provided |
|--------|-------------------------|--------------------|
|--------|-------------------------|--------------------|



|   |                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                     |
|---|---------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 | Public funded research institutions University, IIT/Indian Institute of Science, Bangalore, National Institute Technology, Regional Engineering College | (i) Certificate of registration with Department of Scientific and Industrial Research;<br>(ii) Certificate from Head of Institution, in each case, certifying that goods are required for research purposes only.                                                                                                                                                   |
| 2 | Research institutions                                                                                                                                   | (i) Certificate of registration with Department of Scientific and Industrial Research;<br>(ii) Certificate from Head of Institution, in each case, certifying that goods are required for research purposes only;<br>(iii) Declaration that goods shall not be transferred or sold by the Institution for a period of five (5) years from the date of installation. |
| 3 | Departments and laboratories of the Central and State Government                                                                                        | (i) Certificate from Head of Institution, in each case, certifying that goods are required for research purposes only                                                                                                                                                                                                                                               |

2.7

The aforesaid 'Certificate from Head of Institution' and 'Declaration that goods shall not be transferred or sold by the Institution for a period of five (5) years from the date of installation' is issued by the institutions in each case/purchase order wise.

2.8

However, the Certificate of registration with Department of Scientific and Industrial Research (DSIR) remains standard as it has validity for certain years. Presently, since the said certificates were issued under the old excise regime, the same bear references to the Notifications issued under those regimes. Relevant extract of the Certificate of registration with DSIR provided by CSIR-Institute of Minerals & Materials Technology, Bhubaneswar is reproduced below:

*"This is to certify that CSIR-Institute of Minerals & Materials Technology, Bhubaneswar is registered with the Department of Scientific & Industrial Research (DSIR) for purpose of availing customs duty exemption in terms of Notification 51/96-Cus dated 23.07.1996 and Central Excise duty exemption in terms of Government Notification No. 10/97-CE dated 01.03.1997.*

*This registration is valid upto 31.08.2021"*

2.9

Pursuant to the above, Applicant supplies the said goods to the said institutions from their customs bonded warehouse/non-bonded warehouse.

- 2.10 When supply is from the customs bonded warehouse, goods are transferred to the said institutions, who then file Ex-bond Bill of Entry for clearing the goods from the customs bonded warehouse by paying applicable customs duty and IGST in terms of Notification No. 51/96-Cus dated 23.07.1996 as amended by Notification No. 43/2017-Cus dated 30.06.2017, using their IEC. In such cases commercial invoices are issued by the Applicant.
- 2.11 In case of supply from non-bonded warehouse, Applicant raises invoices on the said institutions, thereby charging applicable CGST/IGST in terms of the Notification No. 45/2017- C.T. (Rate) and Notification No. 47/2017-I.T. (Rate) both dated 14.11.2017.
- 2.12 Prior to 01.07.2017 Central Government, vide Notification No. 51/96-Cus dated 23.07.1996 exempted goods specified therein viz. Scientific and technical instruments, equipment (including computers) and accessories, spare parts and consumables thereon from duty of customs in excess of the amount calculated @ 5% leviable thereon as specified in the First Schedule to the Customs Tariff Act, 1975 (CTA) and from the whole of additional duty leviable thereon under Section 3 of the CTA, when imported into India by or for delivery to public funded research institutions, research institutions, universities, IIT subject to conditions prescribed under Column No. 4.
- 2.13 With effect from 01.07.2017, Central Government vide Notification No. 43/2017-Cus dated 30.06.2017 amended Notification 51/96-Cus dated 23.07.1996 by substituting the words "additional duty leviable thereon under section 3" with "integrated tax leviable thereon under sub-section (7) of section 3".
- 2.14 Vide Notification No. 45/2017-C.T. (Rate) and Notification No. 47/2017-I.T.(Rate) both dated 14.11.2017, Central Government inter alia exempted scientific and technical instruments and equipment supplied to public funded research institution, universities, research institution, Department and laboratories of the Central Government and State Government from so much of the central tax leviable under Section 9 of the CGST Act, 2017 as is in excess of the amount calculated @ 2.5% and from so much of the integrated tax leviable under Section 5 of the IGST Act, 2017 as is in excess of the amount calculated @ 5%, respectively subject to conditions prescribed under the said two Notifications.





- 2.15 Notification No. 45/2017-C.T. (Rate) exempting the central tax leviable under Section 9 of the CGST Act, 2017 is identically worded as Notification No. 47/2017-I.T. (Rate) dated 14.11.2017 reproduced above. Similarly, Notification No. 45/2017-S.T. (Rate) dated 14.11.2017 has also been issued under the MGST Act, 2017.
- 2.16 Based on above facts, Applicant states that, post GST, they will be entitled to supply the said goods to the said institutions, availing exemption under Notification No. 45/2017-C.T. (Rate) and Notification No. 47/2017-I.T. (Rate), both dated 14.11.2017 based on the Certificate of registration with DSIR having reference to the Notifications issued under erstwhile law.
- 2.17 Prior to implementation of GST, vide Notification No. 51/96 -Cus dated 23.07.1996, benefit of reduced rate of applicable customs duty was provided to the said goods supplied to the said institutions subject to conditions stated therein.
- 2.18 An identical Notification No. 10/97-CE dated 01.03.1997, provided benefit of concessional rate of duty under Central Excise Tariff Act as well. Further, Notification No. 43/2017-Cus dated 30.06.2017 amended Notification No. 51/96-Cus to include the "integrated tax" paid under Section 3(7) of the CTA in the benefit granted for reduced rate of duty. There was no amendment to the conditions prescribed under the erstwhile Notification No. 51/96-Cus. Since presently, Applicant only deals with imported goods, for the purpose of subject application reference is made only to Notification No. 51/96-Cus dated 23.07.1996.
- 2.19 Notification No. 45/2017-C.T.(Rate), Notification No. 45/2017-S.T.(Rate) and Notification No. 47/2017-I.T. (Rate) all dated 14.11.2017, (as amended from time to time), grants an exemption, from so much of the central tax leviable under Section 9 of the CGST Act, 2017 as is in excess of the amount calculated @ 2.5% ; from so much of the Maharashtra State Tax leviable under Section 9 as is in excess of the amount calculated at 2.5% ; and from so much of the integrated tax leviable under Section 5 of the IGST Act, 2017 as is in excess of the amount calculated @ 5%, subject to conditions stated therein.
- 2.20 It is submitted that identical conditions prescribed under all the above Notfns are as under:
- I. In case of Public funded research institutions, University, IIT/IIS, Bangalore, National Institute Technology, Regional Engineering College exemption is subject to



production of – (a) Certificate of registration with Department of Scientific and Industrial Research; and (b). Certificate from Head of Institution, in each case, certifying that goods are required for research purposes only.

- II. In case of Research institutions exemption is subject to production of In addition to documents mentioned in clause (a) and (b) of Sr. No. I above, a declaration that goods shall not be transferred or sold by the Institution for a period of five (5) years from the date of installation.
- III. In case of Departments and laboratories of the Central and State Government exemption is subject to production of - Certificate from Head of Institution, in each case, certifying that goods are required for research purposes only.
- 2.21 The question for consideration in the present application is restricted to the part “a” of the Sr. No. “I” of the condition stated above i.e. the Certificate of Registration with DSIR.
- 2.22 The said Certificate of registration with DSIR typically gives reference to the Notification under which, benefit of concessional duty/ tax is claimed. Also, the said Certificate prescribes its validity period and is issued for certain number of years.
- 2.23 Applicant states that, the institutions claiming benefit under the said Notification had applied to the DSIR for amendment of the registration certificate to give specific references to the relevant Notifications issued under the CGST/SGST/IGST Acts along with the reference made to the aforesaid Notification No 51/96-Cus. However, since the validity period of earlier certificates have not expired, the DSIR have denied the amendment to the same to include the references to the relevant Notifications issued under the CGST/SGST/IGST Acts.
- 2.24 Considering the fact that conditions prescribed under all Notifications are the same, production of Certificate of registration with DSIR having reference to the erstwhile Notification No. 51/96-Cus should be considered sufficient compliance for eligibility to avail benefit of the Notifications issued under CGST/SGST and IGST.
- 2.25 Further, Explanation 2 to Notification No. 47/2017 dated 14.11.2017 as amended explicitly provides exemption would be in line with the notification of the G.O.I. in the M.O.F. (Department of Revenue), No. 51/96- Customs, dated the 23.07.1996 and is applicable with effect from the 15th November, 2017.





- 2.26 Without prejudice to above submissions, it is submitted that the condition prescribed is "registration with the DSIR". There is no requirement that the certificate issued by the DSIR should bear reference to the said Notifications.
- 2.27 It is a settled principle of law that the language of the Notification has to be read strictly and there is no scope to add conditions which are not prescribed under the Notification. Reliance in this regard, is placed on the following judgments:
- a. Hemraj Gordhandas vs. H.H. Dave reported in 1978(2) ELT J350 (SC)
  - b. Greatship (India) Ltd. vs. Commissioner of Service Tax, Mumbai-I reported in 2015(39) STR 754 (Bom.)
  - c. Dove Airlines Pvt. Ltd. vs. Commissioner of Customs (Prev.) New Delhi reported in 2014 (313) ELT 292 (Tri-Del)
- 2.28 In view of the aforesaid, Applicant is entitled to supply the said goods to the said institutions, at reduced rate of duty after availing the benefit prescribed under Notification No. 45/2017-C.T. (Rate), Notification No. 45/2017-S.T. (Rate) and Notification No. 47/2017 I.T.(Rate) all dated 14.11.2017.
- 2.29 During the hearing held on 08.12.2020, Applicant was instructed to provide (i) Correspondence with customers wherein they had denied Applicant's request for providing the revised certificates certifying registration with the DSIR, certificates giving reference to the notifications issued under CGST/SGST and IGST Act and (ii) Relation between the Applicant and Toll India Logistics Pvt. Ltd., Thane, Maharashtra.
- 2.30 With regard to (2.29) (i) above, Applicant had approached their customers for providing revised certificates issued by DSIR giving specific references to the notifications issued under the CGST/SGST/IGST Acts. Since the validity of the certificates issued prior to GST regime were still subsisting and the said customers continued to be registered with the DSIR, customers of the Applicant expressed their inability to provide the fresh certificates.
- 2.31 Further, Toll India Logistics Pvt Ltd. is the lessor of the warehouse (unbonded) where the said goods are stored and from supplies are made to customers against the impugned certificates at concessional rate of GST.

**03. CONTENTION – AS PER THE CONCERNED OFFICER:**

Jurisdictional officer has not made any written submission in the present case.



#### **04. HEARING**

- 4.1 Preliminary hearing in the matter was held on 07.01.2019. Mr. Akash Lodha, Tax Manager, Sh. Mihir Mehta, Ms. Shilpi Jain, and Mr. Prasad Paranjape all of them Advocates, appeared, and requested for admission of the application. Jurisdictional Officer was absent.
- 4.2 Final online e-hearing was held on 08.12.2020. Authorized Representatives of the applicant, Mr. Akash Lodha, Tax Manager, Sh. Mihir Mehta, Ms. Shilpi Jain, and Mr. Prasad Paranjape all of them Advocates, and Shri Shaha Gaurang were present. Jurisdictional officer from Central Tax, Division II, Navi Mumbai was absent today. The Authorized Representatives made oral and written submission and stated that they would be submitting further information in this matter at the earliest. The Jurisdictional officer has not made any written submission.
- 4.3 The matter was heard.

#### **05. DISCUSSIONS AND FINDINGS:**

- 5.1 We have perused the records on file and gone through the facts of the case and submissions made by the applicant. The limited question asked is whether the Applicant can avail of concessional rate of GST under the provisions of Notification No.45/2017-C.T. (Rate), Notification No. 45/2017 –S.T. (Rate) and Notification No. 47/2017-I.T. (Rate) all dated 14.11.2017 on scientific and technical instruments/ equipment (hereinafter referred to as ‘the said goods’), supplied to public funded research institutions, research institutions, universities, Indian Institute Of Technology, departments and laboratories of the Central and State Government (hereinafter referred to as the “said institutions”), on the basis of the certificates which have been appended along with this application.
- 5.2 Applicant is engaged in the supply of the said goods, to the said institutions and has both, customs bonded warehouse as well non-bonded warehouses located at various locations. Applicant, during the course of online hearing, stated that the question raised in the present application is only with respect of imported goods supplied from their Mundhwa, Pune Unit only.
- 5.3 The procedure followed in the subject case, as stated by the applicant, is as under:-





The said institutions raise purchase order (PO) on the Applicant for supply of said instruments, declaring in the PO itself that, supplied items will be used for research and development purposes. The said institutions also provide, along with the PO, copy of Certificate of registration with Department of Scientific and Industrial Research (DSIR), Certificate from Head of Institution, in each case, certifying that goods are required for research purposes only and Declaration that goods shall not be transferred or sold by the Institution for a period of five (5) years from the date of installation. The details of the same are mentioned by the applicant in tabular form in their submissions. It has also been submitted that the Certificate of registration with DSIR have a certain validity period and have been issued under the Erstwhile Central Excise regime and are valid even in the GST regime.

- 5.4 The said certificates issued under the erstwhile central excise regime bear references to Notifications issued under those regimes and have validity even through a certain period in the new GST regime. Applicant has submitted that, the necessary mention of relevant Notifications issued under GST Laws, are not forthcoming in the said certificates and the concerned authorities are not inclined to issue fresh certificates bearing references to the relevant GST Notifications. This is the crux of the problem so far as the applicant is concerned because they want to know whether such unamended certificate will be valid in the present GST regime too.



- 5.3 Applicant is claiming exemption under Notification No. 45/2017-C.T. (Rate) dated 14.11.2020 and corresponding Notification Nos. 45/2017 and 47/2017 issued under the MGST Act, 2017 and the IGST Act, 2017, respectively. The said Notifications contain certain conditions for claiming concessional rate of GST and applicant feels that they are eligible for the same because the conditions of the Notifications are satisfied in the subject transactions. According to the applicant, as per the relevant Notifications, the rate of tax on the subject goods is 2.5 % each, under the GST Act.

- 5.4 Relevant Notification No. 45/2017-C.T.-(R) dtd. 14.11.2020 is reproduced as under:-

***Notification No. 45/2017- Central (Rate)***

*In exercise of the powers .....hereby exempts the goods specified in column (3) of the Table below, from the so much of the central tax leviable thereon ....., as in excess of the amount calculated at the rate of 2.5 percent, when supplied to the institutions specified in the corresponding entry in column (2) of the Table, subject*

to the conditions specified in the corresponding entry in column (4) of the said Table –

| Sr.No<br>(1) | Name of importer<br>(2)                                                                                                                                                                                                   | Description of goods<br>(3)                                                                                                                                                                                                                          | Conditions<br>(4)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.           | Public funded research institution other than a hospital, or a university or an Indian Institute of Technology or Indian Institute of Science, Bangalore or a National Institute Technology/ Regional Engineering College | (a) Scientific and technical instruments, apparatus, equipment (including computers);<br><br>(b) accessories, spare parts and consumables thereof;<br><br>(c) .....<br><br>(d) .....                                                                 | (i) The goods are supplied to or for -<br>(a) .....;or<br><br>(b) an institution registered with the Government of India in the Department of Scientific and Research and such institution produces a certificate from an officer not below the rank of the Deputy Secretary to the Government of India or the Deputy Secretary to the State Government or the Deputy Secretary in the Union territory in concerned department to the supplier at the time of supply of the specified goods;<br><br>(ii) The institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case, certifying that the said goods are required for research purposes only;<br><br>(iii) ..... |
| 2.           | Research institution, other than a hospital                                                                                                                                                                               | (a) Scientific and technical instruments, apparatus, equipment (including computers);<br>(b) accessories, parts, consumables and liver animals (experimental purpose); apparatus, equipment (including computers);<br><br>(c) .....<br><br>(d) ..... | 1) The institution is registered with the Government of India in the Department of Scientific and Research, which,<br>(i) produces, at the time of supply, a certificate to the supplier from the head of the institution, in each case, certifying that the said goods are essential for research purposes and will be used for stated purpose only;<br>(ii) .....<br>2) The goods falling under (1) above shall not be transferred or sold by the institution for a period of five years from the date of installation.                                                                                                                                                                                                          |
| 3.           | Departments and laboratories of the Central Government and State Governmen                                                                                                                                                | (a) Scientific and technical instruments, apparatus, equipment (including computers);                                                                                                                                                                | i) The institution produces, at the time of supply, a certificate to the supplier from the Head of the Institution, in each case,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |





|  |                           |                                                                              |                                                                                    |
|--|---------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
|  | ts, other than a hospital | (b) accessories, parts, consumables and live animals (experimental purpose); | certifying that the said goods are required for research purposes only; (ii) ..... |
|--|---------------------------|------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

"Explanation 2. - For the purposes of this notification, exemption would be in line with the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 51/96 Customs, dated the 23rd July, 1996, ..... and is applicable with effect from the 15th November, 2017.

5.5 Applicant has not listed the names of institutions to whom they are supplying the said goods. It is therefore assumed that they are supplying only to institutions which find mention in the above said Notification No. 45/2017 under CGST Act and the corresponding Notifications issued under the MGST Act and the IGST Act.

5.6 As per Notification No. 45/2017- C.T.(Rate), exemption given therein, would be in line with Notification No. 51/96 Customs, dated the 23rd July, 1996 **and is applicable with effect from the 15th November, 2017.**

5.7 General Exemption No. 36 [Notification No.51/96-Customs dated 23.7.1996 as amended by Notification Nos. 93/96, 19/97, 28/98, 20/00, 24/02, 28/03, 24/07, 24/14, 43/17] provides exemption to research equipments imported by public funded research institutions or a university or an IIT or Indian Institute of Science, Bangalore (IIS) or Regional Engineering College (REC), non-commercial institutions etc, from so much of that portion of the duty of customs leviable thereon which is specified in the said First Schedule as is in excess of the amount calculated @ 5% ad valorem and from the whole of the Integrated Tax (IGST) leviable thereon, under sub-section (7) of Section 3 of the said Customs Tariff Act, when imported into India, by importers specified in column (2) of the said Table, subject to conditions specified in the corresponding entry in column (4) of the said Table.

5.8 Notification No. 45/2017 and the corresponding Notifications issued under the SGST Act and the IGST Act, mentioned above have similar conditions.

5.8.1.1 As per Sr. No 1 of Notification 45/2017 mentioned above, when the said goods are supplied to public funded research institutions other than a hospital or a university or an IIT or an IIS or a National Institute of Technology (NIT)/REC, for availing exemption mentioned therein, the said institution must produce a certificate of registration with DSIR, from an officer not below the rank of the Deputy Secretary in the Union



territory in concerned department to the supplier, (in this case, the applicant) at the time of supply of the specified goods. The applicant has submitted that the said institutions, to whom the impugned goods are supplied, provide documents; in the form of Certificate of Registration with the DSIR. The applicant has not mentioned whether the said institutions produce such certificates issued by an officer not below the rank of the Deputy Secretary as mandated in the Notification. It is seen that the applicant has submitted about 9 specimen copies of registration certificates issued, to various institutions by certain scientists employed with the DSIR. The said certificates have different validity dates. Out of the 9 specimen certificates submitted by the applicant around 4 certificates have expired validity date of 31.03.2019 as on the date of the final hearing, in 4 cases, the relevant notifications issued under the GST Acts are very clearly mentioned. Only 1 specimen certificate submitted by the applicant, in respect of CSIR-Institute of Minerals & Materials Technology mentions their eligibility to exemption under Central Excise Notification No. 10/97-Central Excise dated 01.03.1997.



5.8.1.2 Another condition to be satisfied as per Sr. No. 1 is that the Head of the Institution to whom the supply of the said goods are made, issues a Certificate certifying that goods are required for research purposes only and such certificates, are provided to them by the Head of the Institutions to whom the said goods are supplied according to the applicant's submissions.

5.8.1.4 In absence of the necessary certificates/documents having being produced before this authority we feel that the applicant is not entitled for exemption as a blanket case. We will discuss their eligibility for concessional rate of GST only in respect of the certificates submitted by the applicant.

5.8.2 Exemption as per Sr. No 2 of the said Notification 45/2017 is available only when the said goods are supplied to **research institutions other than a hospital**. Applicant has submitted that in their case, the institutions to whom the said goods are supplied, are registered with the DSIR. However they have submitted such certificate only in a few of cases. Hence we will restrict the detailed discussion only in such cases. Another condition to be satisfied as per the said Sr. No. 2 is, that the Head of the Institution to whom the supply of the said goods are made, issues a Certificate certifying that goods are required for research purposes only. This according, to the



applicant's submissions are provided to them. However, corresponding documentary evidence has been submitted only in a couple of cases.

5.8.3 As per Sr. No 3 of Notification 45/2017, when the said goods are supplied to Departments and laboratories of the Central Government and State Governments, the said departments/laboratories must produce, at the time of supply, a certificate to the applicant from the Head of such Institution, in each case, certifying that the said goods are required for research purposes only. Applicant has submitted that, such certificates are provided to them by the Head of the Institutions to whom the said goods are supplied. However, corresponding documentary evidence has been submitted only in a couple of cases.

5.9 In view of the above we take up their question for answer. The Applicant would be correct in charging 2.5% CGST and SGST respectively or 5% IGST, as applicable, by applying Notification No.45/2017-C.T.-(Rate), Notification No. 45/2017-S.T.-(Rate) and Notification No. 47/2017-I.T.-(Rate) all dated 14.11.2017 on the said goods, only when supplied to institutions, universities, IIT, departments and laboratories, etc mentioned in the said Notification 45/2017, on the basis satisfaction of all conditions mentioned in the said notifications.

5.10 The applicant has submitted 9 certificates produced to them by their clients, as mentioned in 5.7.1.1 above. Certificates pertaining to (1) Institute of Bioinformatics, Karnataka, (2) M/s Shilpa Medicare Limited, Karnataka, (3) Centre for Nano and Soft Matter Sciences, Karnataka and (4) IIT, New Delhi, have expired on 31.03.2019. Therefore the applicant will not be available for exemption under the impugned Notification 45/2017. CT. (Rate).

5.10.1 In 4 cases of National Centre for Polar and Ocean Research, University of Delhi, Council of Scientific and Industrial Research CSIR-North East and Institute of Science & Technology, the relevant certificates states that, the concerned institutions are registered with DSIR for the purpose of availing customs duty exemption in terms of Notification 51/96-Cus dated 23.07.1996 and GST exemption under the relevant Notifications.

5.10.2 However, in respect of CSIR-Institute of Minerals & Materials Technology, the certificate issued by DSIR very clearly states that *CSIR-Institute of Minerals & Materials Technology, Bhubaneshwar is registered with the Department of Scientific*



& Industrial Research (DSIR) for purpose of availing customs duty exemption in terms of Notification 51/96-Cus dated 23.07.1996 and Central Excise duty exemption in terms of Government Notification No. 10/97-CE dated 01.03.1997. Thus, the said certificate clearly states that their eligibility to exemption is under Central Excise Notification No. 10/97-C.E. dated 01.03.1997. Since it is clearly stated in the said certificate that the exemption is available only under the Central Excise Notification, the same cannot be extended to the Notifications issued under the GST Acts.

5.11 However, even in cases where the applicant is supplying the said goods to the said institutions and satisfying all the conditions mentioned in the relevant notifications (including submissions of proper certificates issue by the proper authorities), as discussed above, they will be eligible for concessional rate of 5% GST only with effect from the date of issue of the said notifications, i.e. 14.11.2017.

5.12 One of the important conditions mentioned in column 4 of the said notifications is, regarding production of certificates. Applicant has contended that even certificates issued, mentioning the Erstwhile Central Excise Notifications, should be considered as valid certificates under the GST Act. During the hearings, the applicant informed that customers were refusing to issue the certificates mentioning the relevant GST notifications. On being asked to produce relevant proof in this regard, applicant has produced only one email dt 05.09.2019, content of which reads as :- *"Please note that it is not possible to provide you DSIR certificates issued after 14.11.2017."*

Nothing is clear from this email. If the law mandates that certificate is required, then proper and valid certificates are required. It is cardinal principle of law that exemption provisions have to be construed strictly. Exemption provision cannot be interpreted loosely. In the present case Applicant relies on Explanation II of Notification no. 47/2017 dated 14/11/2017 to contend that they are entitled to exemption. However this explanation nowhere mentions that even though new law is brought into effect, certificates under old notification will be valid. The applicant has relied on certain case laws. The ratio or principal of law decided in these cases is that exemption notification has to be read strictly. It is necessary for the applicant to produce proper certificate from the respective authority mentioning availability of exemption under Notification No. 45/2017 (Center & State Authority) and in Notification No. 47/2017 (Integrated Tax) dated 14/11/2017.





06. In view of the above discussions, we pass an order as follows:

**ORDER**

(Under section 98 of the Central Goods and Services Tax Act, 2017 and the Maharashtra Goods and Services Tax Act, 2017)

NO.GST-ARA-45/2019-20/B- 15

Mumbai, dt. 14.06.2021

For reasons as discussed in the body of the order, the questions are answered thus –

**Question :** Whether Applicant is correct in charging 2.5% CGST and SGST or 5% IGST, as applicable, by applying Notification No.45/2017-C.T. (Rate), Notification No. 45/2017 –S.T.(Rate) and Notification No. 47/2017-I.T.-(Rate) all dated 14.11.2017 on the scientific and technical instruments/ equipment supplied to public funded research institutions, research institutions, universities, Indian Institute Of Technology, departments and laboratories of the Central and State Government, basis the certificates appended herewith?

**Answer:** Applicant would be correct in charging 5% GST only in 4 cases of National Centre for Polar and Ocean Research, University of Delhi, Council of Scientific and Industrial Research CSIR-North East and Institute of Science & Technology where all the conditions mentioned in the impugned Notifications are found to be satisfied and the necessary and proper certificates, complete in all respects as mandated by the relevant Notifications have been produced.



*T. R. Ramnani*  
**T. R. RAMNANI**  
(MEMBER)

*P Vinitha Sekhar*  
**P VINITHA SEKHAR**  
(MEMBER)

**Copy to:-**

1. The applicant
2. The concerned Central / State officer
3. The Commissioner of State Tax, Maharashtra State, Mumbai
4. The Chief Commissioner of Central Tax, Churchgate, Mumbai
5. Joint commissioner of State Tax, Mahavikas for Website.

**Note :-** An Appeal against this advance ruling order shall be made before The Maharashtra Appellate Authority for Advance Ruling for Goods and Services Tax, 15<sup>th</sup> floor, Air India building, Nariman Point, Mumbai – 400021.